

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUE**

The issue is whether appellant has met his burden of proof to establish right knee conditions causally related to the accepted factors of his federal employment.

## **FACTUAL HISTORY**

On October 3, 2017 appellant, then a 55-year-old planner/estimator, filed an occupational disease claim (Form CA-2) alleging that he sustained a right knee meniscus tear due to kneeling on deck plates in the course of his federal employment. He noted that he first became aware of his condition on June 19, 1997 and related it to his federal employment on September 20, 2017. Appellant first notified his supervisor of his condition on September 28, 2017.

In a development letter dated October 17, 2017, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded him 30 days to submit the necessary evidence. In a separate development letter of even date, it requested additional information from the employing establishment, including comments from a knowledgeable supervisor pertaining to appellant's alleged occupational disease claim.

In a November 15, 2017 narrative statement, appellant discussed his federal employment duties. He described his 30-year career for the employing establishment and the various positions he had held. Appellant discussed his work locations and reported that his employment duties involved: lifting equipment, tools, and boxes; climbing into confined spaces in bilges and overheads; kneeling on steel walkways, deck plates, structures, pipes, and pipe hangers; and carrying various tools, heavy equipment, and backpacks. He reported that he performed these activities daily for approximately 22 years, 8 hours per day, 40 hours per week.

In support of his claim appellant submitted medical reports dated September 20 and October 25, 2017 from Dr. Bradley J. Watters, a Board-certified orthopedic surgeon. Dr. Watters reported that appellant presented with complaints of bilateral knee pain. He noted that appellant worked a desk job at the employing establishment. Dr. Watters discussed his medical history and noted injuries and subsequent surgeries on both knees since he was a teenager. He reported that appellant had multiple surgeries on his right and left knees at age 17 and 18 as a result of injuries. Dr. Watters subsequently developed severe arthritis. He reviewed September 20, 2017 diagnostic testing of the bilateral knees which revealed prior bilateral knee surgeries with retained hardware, severe lateral compartment arthritis of the right knee, and mild patellofemoral arthrosis bilaterally. Dr. Watters diagnosed severe right knee osteoarthritis bone-on-bone laterally, end-stage degenerative disease of the right knee with multiple prior surgeries, moderate left knee osteoarthritis, history of right knee anterior cruciate ligament (ACL) tear and reconstruction with hamstring graft and retained hardware, and history of left knee medial collateral ligament (MCL) tear and repair with retained hardware. He recommended right knee surgery.

In a September 28, 2017 medical report, Dr. Jeff Stickney, a Board-certified orthopedic surgeon, provided a second opinion evaluation and diagnosed arthritis and bilateral primary osteoarthritis of both knees. He reported that appellant had end-stage degenerative disease in the

right knee with multiple prior surgeries and early degenerative changes of the left knee. Dr. Stickney recommended right knee surgery.

Work restrictions and treatment notes dated June 23 through October 3, 1997 were also submitted documenting treatment for a right knee meniscus tear for which appellant underwent arthroscopic repair on July 28, 1997. Following his surgery, he was released to full-duty work on September 1, 1997.

By decision dated January 3, 2018, OWCP denied appellant's claim finding that the medical evidence of record was insufficient to establish that his diagnosed conditions were causally related to the accepted factors of his federal employment.

On June 5, 2018 appellant, through counsel, requested reconsideration of OWCP's decision. Counsel reported that appellant had retired from his employment with the employing establishment on December 31, 2017 due to severe pain from his right knee osteoarthritis. He noted that appellant initially worked as a pipefitter for the employing establishment and sustained a work-related right knee injury on June 19, 1997. Counsel discussed submission of a narrative report from Dr. Michael S. McManus, Board-certified in occupational medicine, in support of appellant's occupational disease claim which provided an opinion on causal relationship.

In a March 20, 2018 narrative report, Dr. McManus reported that appellant was employed as a planner/estimator and presented for evaluation of right knee symptoms. He noted that appellant was injured on June 19, 1997 while working as a pipefitter for the employing establishment when he was kneeling on deck plates on board a ship and twisted his right knee. Dr. McManus indicated that appellant was diagnosed with right knee internal derangement and meniscal tear, underwent arthroscopic partial medial lateral meniscectomy on July 28, 1997, and transitioned back to full-duty work. He noted that in 2007, appellant reinjured his knee when he twisted it at home, requiring a repeat arthroscopic meniscal repair. Appellant reported that since the original employment injury, he continued to experience gradually worsening pain. Dr. McManus recounted that appellant worked at the shipyards since November 1987 and was initially employed as a pipefitter through 2010. This work entailed repetitively carrying heavy loads of equipment and supplies, climbing steps and vertical ladders, working in confined spaces which required kneeling and stooping, and prolonged work in awkward positions. Dr. McManus noted a prior history of a nonwork-related right knee injury in 1986 requiring ACL reconstruction with subsequent removal of a bone spur or calcification from his quadriceps tendon. However, at the time of the June 19, 1997 employment injury, appellant was performing full-duty work, was completely asymptomatic, and was not receiving treatment for his right knee.

Dr. McManus provided findings on physical examination, reviewed a September 20, 2017 x-ray of the right knee, and diagnosed severe secondary or post-traumatic osteoarthritis of the right knee. He noted that appellant had two work-related exposures that significantly increased his risk of developing secondary/post-traumatic osteoarthritis. These included his prior arthroscopic partial meniscectomies performed as a result of his claimed June 19, 1997 employment injury. Dr. McManus reported that the second was appellant's work as a pipefitter at the employing establishment which required prolonged standing and working on hard surfaces, climbing vertical ladders and steep stairways, carrying heavy loads, and working in confined spaces requiring prolonged stooping, twisting, and kneeling. He concluded that to a reasonable degree of medical

certainty, appellant's employment duties described had contributed to the development of severe secondary or post-traumatic osteoarthritis of his right knee.

By decision dated August 28, 2018, OWCP denied modification of its January 3, 2018 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,<sup>3</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>6</sup>

Rationalized medical opinion evidence is required to establish causal relationship.<sup>7</sup> The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident.<sup>8</sup> The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.<sup>9</sup>

---

<sup>3</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>6</sup> See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>7</sup> See 20 C.F.R. § 10.110(a); *M.M.*, Docket No. 18-1366 (issued February 27, 2019); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>8</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

<sup>9</sup> *S.H.*, Docket No. 17-1660 (issued March 27, 2018); *James Mack*, 43 ECAB 321 (1991).

## ANALYSIS

The Board finds that appellant has not met his burden of proof to establish right knee conditions causally related to the accepted factors of his federal employment.<sup>10</sup>

OWCP received progress and medical restriction notes dated from June 23 to October 3, 1997 pertaining to appellant's arthroscopic repair of his right knee meniscus tear. None of these notes however offered a medical opinion regarding causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>11</sup>

In support of his claim, appellant also submitted medical reports dated September 20 and October 25, 2017 from Dr. Watters who diagnosed severe right knee osteoarthritis bone-on-bone laterally, end-stage degenerative disease of the right knee with multiple prior surgeries, moderate left knee osteoarthritis, history of right knee ACL tear and reconstruction with hamstring graft and retained hardware, and history of left knee MCL tear and repair with retained hardware. While Dr. Watters provided an extensive discussion of appellant's medical history and a firm medical diagnoses, he did not provide an opinion on the cause of appellant's injury. Dr. Stickney's September 28, 2017 report is also insufficient to establish appellant's claim as he did not discuss the cause of appellant's right knee condition. As previously noted, the Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>12</sup> Furthermore, neither physician discussed appellant's employment duties. Without a mention of appellant's employment duties, any diagnostic findings made cannot be established as causally related.<sup>13</sup> These reports from Dr. Watters and Dr. Stickney are therefore of limited probative value.<sup>14</sup>

The Board also finds that Dr. McManus' March 20, 2018 medical report is insufficient to establish appellant's claim. Dr. McManus discussed appellant's June 19, 1997 work-related right knee meniscal tear with subsequent arthroscopic repair, noting that he was released to full-duty work on September 1, 1997. He diagnosed severe secondary or post-traumatic osteoarthritis of the right knee which he opined was caused by his prior arthroscopic partial meniscectomies performed as a result of the June 19, 1997 work injury, as well as his employment duties which required prolonged standing and working on hard surfaces, climbing vertical ladders and steep stairways, carrying heavy loads, and working in confined spaces requiring prolonged stooping, twisting, and kneeling. The Board finds that Dr. McManus provided a firm medical diagnosis, but failed to provide a detailed explanation on causal relationship. While he identified the specific employment factors alleged by appellant, he did not provide a physiological explanation as to how

---

<sup>10</sup> *T.S.*, Docket No. 17-1709 (issued May 7, 2018).

<sup>11</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>12</sup> *Id.*

<sup>13</sup> *S.Y.*, Docket No. 11-1816 (issued March 16, 2012).

<sup>14</sup> *M.S.*, Docket No. 19-0189 (issued May 14, 2019); *T.G.*, Docket No. 14-751 (issued October 20, 2014).

those activities either caused or contributed to appellant's diagnosed right knee condition.<sup>15</sup> A well-rationalized opinion is particularly warranted when there is a history of a preexisting condition.<sup>16</sup> Thus, the Board finds that the report of Dr. McManus lacks the specificity and detail needed to establish that appellant's employment factors caused or aggravated his right knee osteoarthritis.<sup>17</sup>

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that his right knee conditions were causally related to the accepted factors of his federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the August 28, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 22, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

---

<sup>15</sup> *D.F.*, Docket No. 19-0067 (issued May 3, 2019).

<sup>16</sup> *T.M.*, Docket No. 08-0975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

<sup>17</sup> *J.B.*, Docket No. 18-1006 (issued May 3, 2019); *S.R.*, Docket No. 12-1098 (issued September 19, 2012).